

## **REMARKS**

Claims 2, 4, 6, 8 10, 12, 14, 16, 17 and 19 have been amended, claims 1 and 9 have been cancelled and claims 21 and 22 have been added to better clarify the invention. Presently, claims 2-8 and 10-22 are all the claims pending in this Application. Applicant respectfully submits that the claims are now patentably distinct from the prior art for at least the following reasons: (1) Applicant's inventions related to a biopsy catheter (independent claims 17 and 21) are distinct from U.S. Patent No. 5,287,857 to Mann because, among other things, the biopsy needle of the catheter is inserted into the material from which the biopsy is taken, rather than being positioned next to the material and drawing some of the material into an opening through the use of suction, and (2) Applicant's inventions related to an injection catheter (independent claims 19 and 22) are distinct from U.S. Patent No. 6,102,887 to Altman because, among other things, the present invention includes a needle with an opening in its side wall (rather than at the end or tip of the needle), which makes insertion and injection of fluids into dense tissue, such as heart muscle, easier.

### **I. Rejections Under 35 U.S.C. §102.**

#### **A. U.S. Patent No. 5,287,857 to Mann.**

U.S. Patent No. 5,287,857 to Mann ("Mann") discloses a catheter for obtaining biopsy samples from the inner wall of an artery. (See Mann Abstract). During insertion of Mann's catheter into an artery the suction tip 26 is retracted into a cutter tip 20, as shown in Fig. 3. (Mann, col. 6, ll. 15-18; Fig. 3). Suction tip 26 has a rounded tip 58 that is used to steer the catheter through the artery. (Mann, col. 6, ll. 19-22.) Once the catheter is in position, cutter tip 20 slides back from suction tip 26 to expose opening 60. (Col. 6, ll. 29-37; Fig. 4). A vacuum then pulls arterial wall 74 into beveled opening 60 and cutter tip 20 is moved over suction tip 26 to sever a tissue sample 76 from arterial wall 74. (Col. 6, ll. 44-56). Thus, Mann teaches a catheter with a rounded tip 58 designed not to penetrate a bodily structure.

Applicant's biopsy catheter (as described in claims 17 and 21 and the respective claims dependent therefrom) has a different structure (including a pointed tip for insertion into a body material) than Mann's catheter and functions differently because it is inserted into the body material in order to obtain the biopsy. A disadvantage of Mann's catheter is that it could be difficult to draw dense tissue, such as heart tissue, into a port on a needle using just suction.

Further, by utilizing Applicant's catheter and inserting the biopsy needle into the body tissue, a biopsy can be taken of internal, rather than just surface, tissue.

**B. U.S. Patent No. 6,102,887 to Altman.**

U.S. Patent No. 6,102,887 to Altman ("Altman") shows a catheter for injecting therapeutic agents into the body. (See Altman Abstract). Figs. 3-4 and 7 show a straight, hollow stainless steel needle. Referring to Altman's Fig. 3, a needle 312 is shown that has a penetrating tip 316. (Col. 5, ll. 47-49). The opening through which the fluids are injected is located at tip 316. (See Figs 3-4 and 7). This positioning of the opening at the tip can cause resistance in injecting the needle into dense body material, such as a heart muscle, and can also cause resistance when injecting fluid through the opening. In contrast, Applicant's invention (as now claimed in independent claims 19 and 22 and the respective claims dependent therefrom) specifies that the port through which fluid is injected into bodily material is on the side wall of the needle rather than at the tip. This causes less resistance during insertion and injection of fluids into dense material such as heart muscle.

**II. Rejections Under 35 U.S.C. §103.**

In view of the amendments and the preceding remarks, the rejections under 35 U.S.C. § 103(a) are traversed for at least the following reasons: (a) the combination of Mann and Zadini '361 fails to teach each and every limitation of claims 4, 6 and 7, which now depend from new independent claim 21; (b) the combination of Mann and Altman, or of Mann, Altman and Zadini '361 fail to teach each and every limitation of claim 5, which now depends from claim new independent claim 21; (c) the combination of Altman and Zadini '361 fails to teach each and every limitation of claims 14 and 15, which now depend from new independent claim 22; and (d) the combination of Mann and Altman fails to teach each and every limitation of claim 17 (now amended) and claim 18 because, among other things, claim 17 as amended recites a needle with a pointed tip for insertion into a body member.

**CONCLUSION**

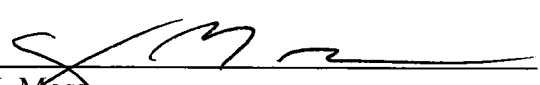
In view of the amendments and arguments herein, reconsideration is respectfully requested. Applicant believes the case is in condition for allowance, and respectfully requests withdrawal of the rejections and allowance of the pending claims. By making the amendments herein, Applicant does not concede to a narrower claim scope than originally sought and reserves the right to prosecute different and/or broader claims in a continuation application.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to **Deposit Account No. 19-3878**.

The Examiner is invited to telephone the undersigned at the telephone number listed below if it would in any way advance prosecution of this case.

Respectfully submitted,

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